

SENATE BILL NO. 289

INTRODUCED BY LAIBLE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ~~PROHIBITING~~ PROVIDING THAT A LOCAL GOVERNMENT WITH  
5 SELF-GOVERNING POWERS FROM IMPOSING MAY NOT IMPOSE A LICENSE FEE OR LICENSE TAX ON  
6 A REAL ESTATE BROKER OR SALESPERSON; AND AMENDING SECTIONS ~~7-1-111~~ AND SECTION  
7 37-51-312, MCA."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 ~~Section 1. Section 7-1-111, MCA, is amended to read:~~

12 ~~"7-1-111. Powers denied. A local government unit with self-government powers is prohibited from~~  
13 ~~exercising the following:~~

14 ~~———— (1) any power that applies to or affects any private or civil relationship, except as an incident to the~~  
15 ~~exercise of an independent self-government power;~~

16 ~~———— (2) any power that applies to or affects the provisions of 7-33-4128 or Title 39 (labor, collective~~  
17 ~~bargaining for public employees, unemployment compensation, or workers' compensation), except that subject~~  
18 ~~to those provisions, it may exercise any power of a public employer with regard to its employees;~~

19 ~~———— (3) any power that applies to or affects the public school system, except that a local unit may impose~~  
20 ~~an assessment reasonably related to the cost of any service or special benefit provided by the unit and shall~~  
21 ~~exercise any power that it is required by law to exercise regarding the public school system;~~

22 ~~———— (4) any power that prohibits the grant or denial of a certificate of public convenience and necessity;~~

23 ~~———— (5) any power that establishes a rate or price otherwise determined by a state agency;~~

24 ~~———— (6) any power that applies to or affects any determination of the department of environmental quality~~  
25 ~~with regard to any mining plan, permit, or contract;~~

26 ~~———— (7) any power that applies to or affects any determination by the department of environmental quality~~  
27 ~~with regard to a certificate of compliance;~~

28 ~~———— (8) any power that defines as an offense conduct made criminal by state statute, that defines an offense~~  
29 ~~as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6 months'~~  
30 ~~imprisonment, or both, except as specifically authorized by statute;~~



1 ~~———(9) any power that applies to or affects the right to keep or bear arms, except that a local government~~  
2 ~~has the power to regulate the carrying of concealed weapons;~~  
3 ~~———(10) any power that applies to or affects a public employee's pension or retirement rights as established~~  
4 ~~by state law, except that a local government may establish additional pension or retirement systems;~~  
5 ~~———(11) any power that applies to or affects the standards of professional or occupational competence~~  
6 ~~established pursuant to Title 37 (professions and occupations) as prerequisites to the carrying on of a profession~~  
7 ~~or occupation;~~  
8 ~~———(12) except as provided in 7-3-1105, 7-3-1222, or 7-31-4110, any power that applies to or affects Title~~  
9 ~~75, chapter 7, part 1 (streambeds), or Title 87 (fish and wildlife);~~  
10 ~~———(13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is intended~~  
11 ~~to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title 70,~~  
12 ~~chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require landlords~~  
13 ~~to comply with ordinances or provisions that are applicable to all other businesses or residences within the local~~  
14 ~~government's jurisdiction.~~  
15 ~~———(14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy;~~  
16 ~~———(15) any power to impose a license fee or tax on a real estate broker or salesperson as provided in~~  
17 ~~37-51-312."~~

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19 **Section 1.** Section 37-51-312, MCA, is amended to read:

20 **"37-51-312. No taxation by municipality.** ~~No~~ (1) A license fee or LICENSE tax may not be imposed on  
21 a real estate broker or salesperson AS A CONDITION TO THE PRACTICE OF THE BROKER'S OR SALESPERSON'S  
22 PROFESSION by a municipality or any other political subdivision of the state, including a local government with  
23 self-governing powers.

24 (2) THIS SECTION DOES NOT PROHIBIT A MUNICIPALITY OR OTHER POLITICAL SUBDIVISION OF THE STATE FROM  
25 IMPOSING A GENERAL BUSINESS LICENSE FEE OR GENERAL BUSINESS LICENSE TAX ON AN ESTABLISHMENT AS A CONDITION  
26 OF CONDUCTING BUSINESS IN THE MUNICIPALITY'S OR OTHER POLITICAL SUBDIVISION'S JURISDICTION."

27 - END -